

REMARKS/ARGUMENTS

The present Amendment is in response to the Examiner's Office Action mailed July 7, 2008. Claims 38 and 46 have been amended, and no claims have been cancelled or added herewith. Accordingly, Claims 38, 39, 46 and 47 are now pending in view of the above amendments.

Reconsideration of the application is respectfully requested in view of the above amendments to the claims and the following remarks. For the Examiner's convenience and reference, Applicant's remarks are presented in the order in which the corresponding issues were raised in the Office Action.

Rejection Under 35 U.S.C. § 103

The Examiner rejected Claims 38-39 and 46-47 under 35 U.S.C. § 103(a) as being unpatentable over Matsushima (U.S. Patent No. 6,510,595).

The U.S. Supreme Court, in KSR Int'l. Co. v. Teleflex Inc., 82 USPQ 2d 1385, 1391 (2007), reiterated the standard for determining obviousness under 35 U.S.C. § 103 as being the factual inquiries set forth in Graham v. John Deere Co. of Kansas City, 383 U.S. 1 (1966). In Graham, the Court stated that obviousness is determined by first determining the scope and content of the prior art, then ascertaining the differences between the invention, as claimed, and the prior art, and then resolving the level of ordinary skill in the prior art. Against this background, the obviousness or non-obviousness of the claimed subject matter is determined. Secondary considerations may also be utilized in this analysis to give light to the circumstances surrounding the origin of the subject matter sought to be patented. KSR Int'l Co., 82 USPQ 2d at 1391. When making any obviousness rejection, the Examiner must first acquire a thorough understanding of the claimed invention by reading the specification and claims to understand what the Applicant is claiming as his invention. MPEP § 904.

To establish a prima facie case of obviousness under 35 U.S.C. §103(a), the Examiner must clearly articulate the reason(s) why the claimed invention would have been obvious (i.e., the analysis supporting the rejection must be made explicit.) See MPEP § 2142. "Rejections on

obviousness cannot be sustained with mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” See MPEP § 2142; In re Kahn, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006); see also KSR Int’l Co., 82 USPQ 2d at 1396. To support a 103(a) rejection, the Examiner must demonstrate that a person of ordinary skill in the art would have had reason to attempt to make the claimed device, or carry out the claimed process, and would have had a reasonable expectation of success in doing so. See Noelle v. Lederman, 355 F.3d 1343, 1351–52 (Fed. Cir. 2004); Brown & Williamson Tobacco Co. v. Philip Morris, Inc., 229 F.3d 1120, 1121 (Fed. Cir. 2000); see also KSR Int’l Co., 82 USPQ2d at 1391.

The Applicant has amended both Claims 38 and 46 to include the following limitation, “wherein when separating the first and second mating surfaces the closure bar of the slider anchors the lower seal member and the lifting rib of the slider contacts the lifting wing of the upper seal member to pull and separate the first mating surface from the second mating surface as the slider is moved in an opening direction.” Support for this amendment can be found in the current application, including the Specification at Paragraphs [0072] and [0096] of U.S. Pat. App. Pub. No. 2004/0187273 corresponding to the current Application Serial No. 10/803,834. The Applicant believes that no new matter has been added by the amendments made herein.

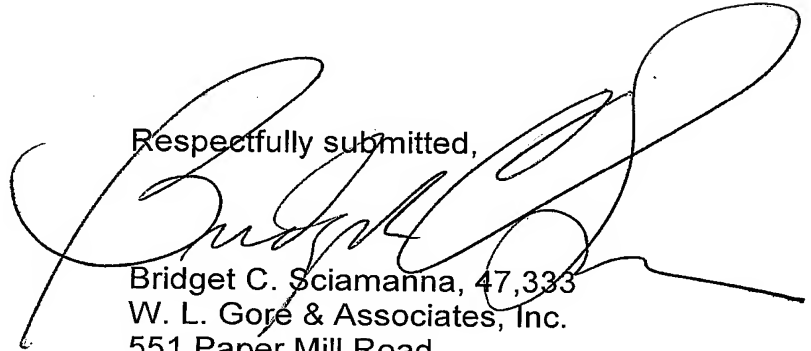
Matsushima discloses a slider 41 that includes a guide column 42 that wedges apart the convex-row-meshing portion 7 from the concave-row-meshing portion 4 when the slider 41 is advanced in an opening direction. Fig. 14 of Matsushima (directed to prior art) appears to work the same way. Thus, the devices disclosed in Matsushima use a wedge that acts directly on meshing portions 4 and 7. The seal members of the present application operate by having their mating surfaces pulled apart (see Spec., Para. [0072] of U.S. Pat. App. Pub. No. 2004/0187273 corresponding to the current Application Serial No. 10/803,834) as opposed to being wedged apart. The Applicant asserts that there is a beneficial result to the longevity of the mating surfaces of the seal if friction is reduced when opening the seal by not wedging apart the mating surfaces.

In addition to the foregoing, it is noted that if the structure that the Examiner asserts is the closure bar of Fig. 14 of Matsushima is added to the structure of the slider 41 of Fig. 4 of Matsushima, the limitations of the amended claims are still not obtained.

Conclusion

In view of the foregoing, the Applicant believes the claims as amended are in allowable form. In the event that the Examiner finds a remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, or which may be overcome by an Examiner's Amendment, the Examiner is requested to contact the undersigned attorney.

Respectfully submitted,



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